

BULLETIN 926

February 25, 1952

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STATE OF NEW JERSEY  
 Department of Law and Public Safety  
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
 1060 Broad Street Newark 2, N. J.

BULLETIN 926

February 25, 1952

1. ACTIVITY REPORT FOR JANUARY 1952

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		12
Licensees and employees - - - - -	9	
Bootleggers - - - - -	3	
<b>SEIZURES:</b>		1
Stillis - over 50 gallons - - - - -		
- 50 gallons or under - - - - -		1
Mash - gallons - - - - -		1,000.00
Distilled alcoholic beverages - gallons - - - - -		.09
Wine - gallons - - - - -		.50
Brewed malt alcoholic beverages - gallons - - - - -		.25
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		962
Premises where alcoholic beverages were gauged - - - - -		959
Bottles gauged - - - - -		16,169
Premises where violations were found - - - - -		237
Violations found - - - - -		263
Type of violations found:		
Unqualified employees - - - - -	20	Gambling devices - - - - -
Reg. #38 sign not posted - - - - -	6	Other mercantile business - - - - -
Probable fronts - - - - -	3	Other violations - - - - -
		231
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		40
License applications investigated - - - - -		12
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		543
Investigations completed - - - - -		446
Investigations pending - - - - -		151
<b>LABORATORY:</b>		
Analyses made - - - - -		72
Refills (from licensed premises) - bottles - - - - -		2
Bottles from unlicensed premises - - - - -		6
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made - - - - -		19
Persons fingerprinted for non-criminal purposes - - - - -		214
Identification contacts made with other enforcement agencies - - - - -		182
Motor vehicle identifications via N. J. State Police Teletype - - - - -		20
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		11
Violations involved:		
Sale during prohibited hours - - - - -	4	
Sale to minors - - - - -	3	
Permitting brawls on premises - - - - -	3	
Sale to non-members by club - - - - -	1	
Cases instituted at Division - - - - -		23
Violations involved:		
Sale to minors - - - - -	9	Permitting gambling (wagering) on prem. - - - - -
Fraud and front - - - - -	4	Permitting bookmaking on premises - - - - -
Unqualified employee - - - - -	2	Permitting pin ball machine on premises - - - - -
Sale during prohibited hours - - - - -	2	Mislabeling beer taps - - - - -
Sale beyond scope of license - - - - -	2	Retailer employing solicitor-permittee - - - - -
Solicitor-permittee employed by retailer - - - - -	1	Retailer soliciting house to house - - - - -
Permitting immoral activity on premises - - - - -	1	Possessing illicit liquor - - - - -
Permitting hostesses on premises - - - - -	1	Delivery without bona fide invoice - - - - -
Permitting lottery activity (raffle) - - - - -	1	Aiding and abetting unlicensed sale - - - - -
Permitting brawls on premises - - - - -	1	Violation of special ruling - - - - -
Cases brought by municipalities on own initiative and reported to Division - - - - -		8
Violations involved:		
Permitting brawls on premises - - - - -	2	Permitting immoral activity on premises - - - - -
Sale during prohibited hours - - - - -	2	Permitting bookmaking on premises - - - - -
Sale to minors - - - - -	2	Permitting gambling (wagering) on prem. - - - - -
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		37
Appeals - - - - -	4	
Disciplinary proceedings - - - - -	18	
Eligibility - - - - -	10	
Seizures - - - - -	5	
<b>PERMITS ISSUED:</b>		
Total number of permits issued - - - - -		754
Employment - - - - -	154	Social affairs - - - - -
Solicitors - - - - -	88	Special wine - - - - -
Disposal of alcoholic beverages - - - - -	104	Miscellaneous - - - - -
		102

EDWARD J. DORTON,  
Acting Director

Dated: February 4, 1952

## 2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on April 1, 1952. Prices to be listed must be filed with the office of this Division not later than 4:00 p.m. of February 20, 1952. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this state must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings; or by any wholesaler who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Note particularly that every wholesaler is not required to file minimum consumer prices.
2. Manufacturers or ~~wholesalers~~ are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.
3. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of \_\_\_\_\_% permitted on case lot purchases" should be used.
4. True copies of labels or photostats of labels of brands to be listed in the Minimum Consumer Resale Price Pamphlet must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)
5. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE APRIL 1, 1952 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER APRIL 1, 1952.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Consumer Resale Price Pamphlet will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK,  
Director

Dated: January 31, 1952



The undisputed facts disclose that appellant's premises are located in a section zoned for heavy industry; that the highway upon which the premises are located consists of four traffic lanes (two lanes for eastbound traffic and two lanes for westbound traffic), said lanes being divided by safety islands; that almost in front of the proposed premises is a cross-over in the safety island to be used by drivers of motor vehicles desiring to turn so that they may proceed in the opposite direction on the highway. Appellant's premises are located on the southerly side of the highway. On the same side of the highway, immediately west of and adjacent to appellant's premises, is a truck terminal, the facilities of which are used by about thirty trucks. Immediately to the east of the premises is a plot of land occupied by a construction company which operates several trucks in the course of its business. Farther to the east, on the southwest corner of President Street and Route 6, is a service station. On the opposite side of the highway from where appellant's premises are located is a drive-in theater and also an amusement park. West of the aforesaid places of amusement, at a distance in excess of five hundred feet from appellant's premises, there is a place of business operated by the holder of a plenary retail consumption license.

Appellant testified that his premises, operated as a restaurant and luncheonette, have a frontage of one hundred seventy-six feet on the highway; that his building is set back seventy feet from the edge of the highway, and that parking facilities will be available for two hundred to three hundred cars.

Committeeman Ochsner, one of those who voted to deny the application to transfer, testified that in his opinion "the transfer would be against the interests of public safety." Furthermore, Committeeman Ochsner stated "conditions here should not be worsened by the addition of any other installation which the Township Committee is in a position to prevent of increasing the traffic hazards." Committeeman Taggart, who also voted to deny, did not testify at the hearing herein.

The Chief of Police of the Township testified that there have been numerous accidents on the highway and that, in his opinion, the transfer of a liquor license to the proposed premises would add to the dangerous condition which now prevails. However, six other police officers employed by the Township, including a Captain and Sergeant, testified that, in their opinion, the transfer of a liquor license to the proposed premises would not in anywise increase the traffic hazard.

The effectiveness of the opinion of Committeeman Ochsner and the Chief of Police as to an alleged traffic hazard is diminished by reason of the fact that nearly all the numerous accidents they referred to occurred near the intersection of Fifth Street and the highway, more than one thousand feet from appellant's premises, and that only one accident occurred near appellant's premises in the year 1951.

Four objectors, two of whom testified at the previous appeal hearing, contended that the transfer of the license to the proposed premises would tend to increase the congestion of the traffic

condition that now exists. These witnesses, however, are all interested parties. The male witness is the owner of the premises at which the license is presently located; another witness is his wife, and the remaining two witnesses are his daughters. Their testimony as to an alleged traffic hazard carries little weight because of their interest in the case.

The transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; VanSchoick v. Howell, Bulletin 120, Item 6; Craig v. Orange, Bulletin 251, Item 4; Masarik v. Milltown, Bulletin 283, Item 10.

On the other hand, where it appears that refusal of a transfer is arbitrary and unreasonable, the action of respondent in refusing the transfer will be reversed. Blumenthal v. Wall, Bulletin 169, Item 6; Conn v. Kearny, Bulletin 173, Item 1; Miller v. Paterson, Bulletin 219, Item 6; Rucereto v. Dumont, Bulletin 253, Item 6; Shapley v. Delaware, Bulletin 294, Item 7.

The facts herein indicate that no attack is made on the personal fitness of the applicant. The testimony is conclusive that this section of the highway is devoted almost exclusively to business purposes. A plenary retail consumption license has been issued for premises on the opposite side of the highway, approximately five hundred feet from appellant's premises. The parking facilities at appellant's premises appear sufficient to accommodate the parking of cars off the highway. It does not appear from the evidence that the operation of a plenary retail consumption license at appellant's premises would change the traffic situation in any appreciable way.

Under the circumstances, I conclude that the respondent Township Committee's action denying appellant's transfer application was unreasonable and must, therefore, be reversed.

Accordingly, it is, on this 5th day of February, 1952,

ORDERED that the action of the respondent Township Committee, in denying appellant's application for transfer of the plenary retail consumption license held by Wallace G. Haigh, for premises 529 Market Street, to appellant, for premises 230 Route 6, Saddle River, be and the same is hereby reversed, and respondent is directed to issue forthwith the transfer for which application was made be appellant.

EDWARD J. DORTON  
Acting Director

4. APPELLATE DECISIONS - ANDY'S TAVERN v. NEW BRUNSWICK

ANDY'S TAVERN (a corp.), trading as )  
ANDY'S TAVERN )

Appellant; )

ON APPEAL

-vs- )

O R D E R

BOARD OF COMMISSIONERS OF THE CITY )  
OF NEW BRUNSWICK, )

Respondent )

Morris Spritzer, Esq., Attorney for Appellant.  
Paul W. Ewing, Esq., Attorney for Respondent.

This is an appeal from the action of respondent whereby it suspended appellant's license C-3 for a period of sixty days after it had found appellant guilty of (1) permitting a female employee to accept drinks of alcoholic beverages at the expense of and as a gift from a customer, in violation of Rule 22 of State Regulations No. 20; and (2) permitting immoral activities on the licensed premises, in violation of Rule 5 of State Regulations No. 20. The premises in question are located at 7 Albany Street, New Brunswick.

On the filing of the appeal an order was entered, dated January 18, 1952, staying the effect of respondent's order of suspension until the entry of a further order herein.

Prior to the date of hearing, the attorney for appellant advised in writing that his client desires to withdraw its appeal. The attorney for respondent has advised me verbally that he has no objection thereto. No reason appearing to the contrary,

It is, on this 5th day of February, 1952,

ORDERED that the within appeal be and the same is hereby dismissed; and it is further

ORDERED that the Order dated January 18, 1952, shall be vacated, effective at 2 a.m., February 14, 1952, and that plenary retail consumption license C-3, issued by the Board of Commissioners of the City of New Brunswick to Andy's Tavern (a corp.), trading as Andy's Tavern, for premises 7 Albany Street, New Brunswick, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2 a.m., February 14, 1952, and terminating at 2 a.m., April 14, 1952.

EDWARD J. DORTON,  
Acting Director

5. DISCIPLINARY PROCEEDINGS - EMPLOYING PERSON CONVICTED OF CRIME INVOLVING MORAL TURPITUDE DESPITE PRIOR WARNING - PERMITTING FEAMLE EMPLOYEES TO ACCEPT DRINKS AT EXPENSE OF PATRONS - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against

EMILY KONIKOWSKI AND KAROL SKRZYPCZAK, )  
81 Lester Street, )  
Wallington, New Jersey, )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption )  
License C-20, issued by the Mayor and )  
Council of the Borough of Wallington )  
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August C. Michaelis, Esq., Attorney for Defendant-licensees.  
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

Defendants have pleaded not guilty to the following charges:

- "1. On divers days between June 26, 1951 and September 6, 1951 you knowingly employed and had connected with you in a business capacity Alphonse Oskroba, a person who had been convicted of crimes involving moral turpitude, viz., in Essex County, New Jersey on or about August 31, 1936 of the crime of breaking and entering and on or about February 23, 1938 of the crime of robbery and in Nassau County, New York on or about April 21, 1950 of the crime of forgery; in violation of Rule 1 of State Regulations No. 13.
- "2. On June 26 and 28, July 13 and August 7, 1951 you allowed, permitted and suffered 'Frances', and on August 1, 1951 you allowed, permitted and suffered 'Margie', females employed on your licensed premises, to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20."

Edward J. Porowski testified that between 1 and 2 a.m. on Tuesday, June 26, 1951, he and a male companion visited defendants' licensed premises; that upon their arrival a girl named "Frances" was tending bar; that both he and his companion treated the barmaid to drinks.

An ABC agent testified that while in defendants' licensed premises on August 1, 1951, he saw Alphonse Oskroba "standing at the far end of the bar near the rear exit conversing with a male later learned to be a towel salesman" and that he observed "passing of money between Alphonse and this male, and also he received from this male several pink slips." The witness further testified that "Margie" was tending bar and that she had a glass of beer with him and at his expense. He also testified that on August 7, 1951, he again visited defendants' licensed premises; that on this occasion

"Frances was tending bar; that he asked her if she wished to have a drink; that she answered "Wait until my boss comes up. He went down the cellar to get me a couple of bottles of wine. Wine is my drink;" that a short time thereafter Alphonse Oskroba brought wine into the barroom and that "Frances" had a drink both with him and a fellow-agent at their expense; that Emily Konikowski, one of the licensees, was seated at the bar drinking with a male companion; that "shortly after nine o'clock, Oskroba was prepared to leave the premises accompanied by Emily. He stopped by 'Frances' and told 'Frances' to be sure to keep the wine cold."

Another ABC agent testified that on July 13, 1951, as he entered defendants' licensed premises he observed Alphonse Oskroba "mopping up the premises, sweeping and mopping up the entire premises, outside the bar and within the bar, cleaning around the bar;" that "Frances" was tending bar and that she had a drink with him at his expense; that he visited the licensed premises on August 1, 1951, and that he treated "Margie" to a drink; that he again visited defendants' licensed premises on August 7, 1951, and that "Frances" had a drink of wine at his expense and at the expense of two other ABC agents; that the wine was brought up from the cellar by Alphonse Oskroba; that on September 6, 1951, the said Alphonse Oskroba was acting as bartender and served a drink to him and another ABC agent. The testimony concerning Alphonse Oskroba's actions on August 7, 1951, and September 6, 1951, is corroborated by a third ABC agent. A fourth ABC agent testified that he visited the licensed premises of defendants on September 6, 1951, at which time he was served by Alphonse Oskroba who was tending bar.

Emily Konikowski (Oskroba), one of the licensees, testified that her husband, Alphonse Oskroba, helped clean the licensed premises "but never worked behind the bar." However, I doubt her testimony. In any event, Emily Konikowski admitted being notified by the Director in January 1951 that Alphonse Oskroba, because of his criminal record, could not be employed in any capacity on licensed premises.

Margaret Patsenka, known as "Margie", admitted drinking with and at the expense of ABC agents while she was tending bar.

After careful consideration of all the testimony, I am satisfied that the witnesses for the State have related an accurate account of the events which took place at the various times in question. I am also satisfied that Emily Konikowski not only knew that her husband, Alphonse Oskroba, tended bar and worked in other capacities on the licensed premises, but that she acquiesced in his doing so. Thus he was "knowingly employed" upon the licensed premises. Cf. Kravis v. Hock, 137 N.J.L. 252. I do not believe her testimony that ABC agents advised her that it was permissible for female bartenders to accept drinks at the expense of patrons.

I find defendants guilty on both charges.

Defendants have no prior adjudicated record. In view of the warning of this Division that Alphonse Oskroba could not be employed upon the licensed premises, I shall suspend defendants' license for a period of twenty days on Charge 1 (Re Larry Corbo's Inc., Bulletin 908, Item 9). I shall also suspend defendants' license for an

additional period of twenty days on Charge 2 (Re Grippio, Bulletin 881, Item 3), making a total suspension of forty days.

Accordingly, it is, on this 6th day of February, 1952,

ORDERED that plenary retail consumption license C-20, issued by the Mayor and Council of the Borough of Wallington to Emily Konikowski and Karol Skrzypczak, for premises 81 Lester Street, Wallington, be and the same is hereby suspended for a period of forty (40) days, commencing at 3 a.m. February 13, 1952, and terminating at 3 a.m. March 24, 1952.

EDWARD J. DORTON,  
Acting Director

- 6. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE AND RULE 1 OF STATE REGULATIONS NO. 38. - FAILING TO CLOSE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - PREVIOUS RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 HENRY M. STAGG & JAMES A. FERINO  
 T/a BROWNIES BAR & GRILL  
 457 Paterson Avenue  
 Wallington, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-31, issued by the Mayor and Council of the Borough of Wallington.  
 ----- )

Henry M. Stagg & James A. Ferino, Defendant-licensees,  
 by James A. Ferino  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

Defendants have pleaded non vult to charges alleging that (1) on Friday, January 11, 1952, between 3 a.m., and 6 a.m., they sold, served and delivered alcoholic beverages and permitted consumption of such beverages on their licensed premises; (2) they failed to have their licensed premises closed during said hours; both in violation of a local ordinance; and (3) on Friday, January 11, 1952, during prohibited hours, they sold an alcoholic beverage in an original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

An examination of the file herein discloses that on Friday, January 11, 1952 at 5:40 a.m., two ABC agents were admitted to the defendants' licensed premises by a person subsequently identified as James A. Ferino, one of the licensees. The ABC agents observed five male patrons with drinks in front of them seated at the bar. The agents ordered and were served alcoholic beverages by the person

who had admitted them and one of the agents purchased from him a pint of whiskey for off-premises consumption. Two other patrons admitted to defendants' licensed premises after the arrival of the ABC agents were served drinks of alcoholic beverages previous to the time the ABC agents made known their identity to James A. Ferino, one of the licensees. Ordinarily, these violations would warrant a suspension of the license for thirty days. Re Trombley, Bulletin 784, Item 9. However, defendants have a prior adjudicated record. Effective January 15, 1949, their license was suspended for thirty days as a result of a plea of non vult entered to charges brought against Henry M. Stagg, one of the within licensees, alleging that he had concealed the interest of James A. Ferino in the license. Re Stagg & Ferino, Bulletin 846, Item 5.

Under the circumstances, I shall suspend defendants' license for a period of thirty-five days, less five days' remission for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 5th day of February, 1952,

ORDERED that Plenary Retail Consumption License C-31, issued by the Mayor and Council of the Borough of Wallington to Henry M. Stagg & James A. Ferino, t/a Brownies Bar & Grill, 457 Paterson Avenue, Wallington, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3 a.m., February 13, 1952, and terminating at 3 a.m., March 14, 1952.

EDWARD J. DORTON,  
Acting Director

7. DISCIPLINARY PROCEEDINGS - GIVING FREE DRINKS IN VIOLATION OF SPECIAL RULING - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

CHARLES EISEN, JR.,  
T/a PARK TAVERN  
575 West Side Avenue,  
Jersey City, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-109, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

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Charles Eisen, Jr., Defendant-licensee, Pro Se.  
Vincent T. Flanagan, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The licensee has pleaded guilty to a charge alleging that, as a regular practice, he gave without charge (or "bought Back" one drink of beer after every two purchased and one drink of whiskey

after every three purchased, in violation of a special ruling previously made directing him to discontinue the practice.

The special ruling (made pursuant to R. S. 33:1-39, which authorizes such rulings to prohibit, among other things, practices unduly designed to increase consumption of alcoholic beverages) was announced to the licensee by letter of November 28, 1950, which read in part:

"Your practice of giving free drinks in the manner described is entirely improper. It obviously is designed to increase unduly the consumption of alcoholic beverages because the average customer would feel compelled to buy additional drinks, in part to show gratitude for your 'generosity', and in part to qualify for the next free drink."

In response, by letter of November 29, 1950, the licensee advised, "I am discontinuing this routine as of today." Notwithstanding the special ruling and the licensee's assurance of compliance, he was found in November 1951 engaging in the prohibited practice.

It needs but momentary reflection to understand that any such practice as above described is contrary to the basic principles of sound alcoholic beverage control. Its inevitable and inescapable consequence is to induce, by the lure of "something for nothing", consumption of alcoholic beverages to an extent greater than that demanded by normal appetite unstimulated by the "free drink" come-on. As the late Commissioner Burnett said in Re Lipitz, Bulletin 372, Item 2:

"...A drink on the house, now and then, is one thing. An hour's drinks on the house every Saturday night is quite another."

So, likewise, are drinks on the house every time the customer purchases a designated number of drinks.

The licensee has no prior adjudicated record. Under all of the circumstances and giving consideration to the plea entered herein, I shall suspend the license for a period of ten days.

Accordingly, it is, on this 31st day of January, 1952,

ORDERED that Plenary Retail Consumption License C-109, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Charles Eisen, Jr., t/a Park Tavern, 575 West Side Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2 a.m., February 6, 1952, and terminating at 2 a.m., February 16, 1952.

ERWIN B. HOCK,  
Director

8. DISCIPLINARY PROCEEDINGS - PERMITTING PROSTITUTES, SOLICITATION FOR PROSTITUTION AND OBSCENE LANGUAGE ON LICENSED PREMISES - CHARGES DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary Proceedings against )

JOHN JOLAS )  
285 Mulberry Street )  
Newark 5, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-182, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
----- )

Edward J. Abromson, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded ~~not guilty~~ to charges alleging that he allowed, permitted and suffered in and upon his licensed premises (1) prostitutes, in violation of Rule 4 of State Regulations No.20, (2) immoral activity, viz., solicitation for prostitution, in violation of Rule 5 of State Regulations No. 20, and (3) obscene language, in violation of Rule 5 of State Regulations No. 20.

The hearing in this case consumed two days and the record, containing the testimony of some 14 witnesses, is quite voluminous. In view of the result reached, no useful purpose would be served by a detailed analysis of the evidence. Suffice it to say that, after several painstaking reviews of the record, I am not satisfied that the proof is sufficient to warrant a finding that the licensee "allowed, permitted and suffered" any of the alleged violations.

The charges are serious and the evidence in support thereof should be clear and convincing. While there is much in the record that gives rise to a grave suspicion that the licensee, through his bartenders, was aware of some, if not all, of the charged violations, such suspicion is not a proper substitute for proof. The evidence falls short of establishing that preponderance of the proof requisite to sustain a finding that the alleged infractions were "allowed, permitted and suffered" by the licensee and, accordingly, the charges must be dismissed.

It is not without some misgiving that I reach this determination in this case. The licensee has escaped a penalty herein by the smallest of margins. If he continues to conduct his business with such lack of propriety as seems to be apparent from the record, he must eventually find himself again faced with disciplinary proceedings and, in such event, he may find that his luck has deserted him. The defendant would be well advised to keep a tight rein

upon the operation of his licensed business.

Accordingly, it is, on this 31st day of January, 1952,

ORDERED that the charges herein be and the same are hereby dismissed.

ERWIN B. HOCK,  
Director

9. DISQUALIFICATION - FIVE YEARS GOOD CONDUCT - APPLICATION GRANTED.

In the Matter of an Application )  
to Remove Disqualification because )  
of a Conviction, Pursuant to )  
R. S. 33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 945. )  
----- )

BY THE DIRECTOR:

On April 6, 1949 I ruled that in my opinion the crime of possession of stolen goods of which petitioner pleaded guilty on November 5, 1945 involved the element of moral turpitude. Re Bulletin 840, Item 8.

Petitioner was sentenced on January 18, 1946 to one year in a Federal correctional institution, being released therefrom on November 18, 1946. Petitioner has never been convicted of any other crime.

At the hearing herein three witnesses (an officer of a manufacturing company, a housewife and a businessman) testified that they have known petitioner eight or more years and that he bears a reputation for being a law-abiding person in the community in which he resides. The Chief of Police of the municipality in which petitioner lives has certified that no charges or investigations concerning petitioner are presently pending.

I would have no hesitancy in granting relief in this matter were it not for the fact that petitioner was found to be working as a bartender on licensed premises on September 30, 1948. It should be noted that this was prior to the date of my decision in Bulletin 840, Item 8. Petitioner testified that he did not know he was ineligible, and that upon learning that in my opinion he was ineligible to work on licensed premises because of his criminal record he immediately left his employment. Petitioner testified that he has been working as a cabinetmaker and that he has not been associated in any capacity with the alcoholic beverage industry since that time. Knowledge of the law is not a necessary ingredient of the good faith essential in rehabilitation proceedings. Re Case No. 96, Bulletin 405, Item 7. I believe petitioner acted in good faith.

I am satisfied that petitioner has rehabilitated himself and

that his association with the alcoholic beverage industry will not be contrary to public interest. Hence, I shall lift petitioner's present disqualification.

Accordingly, it is, on this 23d day of January, 1952,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK,  
Director

10. STATE LICENSES - TRANSFER (PERSON TO PERSON) OF STATE BEVERAGE DISTRIBUTOR'S LICENSE GRANTED.

In the Matter of Objections to an )  
Application for Transfer of State )  
Beverage Distributor's License )  
SBD-93 from Louis Miesch, Sr., )  
t/a Golden Rule Beverages, 72 )  
Dewey Avenue, Totowa, to )

DORIS & HAROLD SACKS, )  
T/a FRANK'S BEVERAGE DISTRIBUTORS, )  
256 Water Street )  
Paterson, New Jersey )

CONCLUSIONS  
AND ORDER

- 
- Harold P. Altshuler, Esq., Attorney for Applicant.
  - Leo J. Berg, Esq., Attorney for State Beverage Distributors' Association, an Objector.
  - Samuel Moskowitz, Esq., Attorney for New Jersey Retail Liquor Stores Association, an Objector
  - Theodore Rosenberg, Esq., Attorney for Passaic County Retail Liquor Stores Association, an Objector.

BY THE DIRECTOR:

The objections herein are "primarily based on the fact that this is an attempt to barter a deal in a SBD license" and also because "public need and necessity will not be served by the transfer."

The records of the Division of Alcoholic Beverage Control disclose that Louis Miesch, Sr., the present holder of the State Beverage Distributor's License, formerly held a limited retail distribution license for premises at 72 Dewey Avenue, Totowa. After the enactment of P.L. 1951, c. 163, Louis Miesch, Sr., applied to me for a State Beverage Distributor's License. On August 14, 1951, State Beverage Distributor's License SBD-93 was issued to the applicant, and he was then advised that "Since you need hold no Federal Basic Permit, you may not sell any alcoholic beverages to retailers pursuant to the license herewith issued to you." Said Louis Miesch, Sr., has consented to a transfer of said license to Doris & Harold Sacks, the applicants herein.

At the hearing held upon the objections it appears that Louis Miesch, Sr., conducts a soda and beer business, and that his beer customers are located in Totowa Borough, North Haledon, East Haledon, Wyckoff and Franklin Lakes. He testified that, at the time he obtained his present license, he had no intention of selling it but he has since decided to "let it go." He is sixty-nine years of age.

On behalf of the applicant, Arnold Sacks testified that the applicants have been engaged in the soda business since 1942, and that they had been selling to stores and also consumers. At the present time the business has about six hundred consumer accounts. He further testified that, if the transfer of the license is granted, the applicants will sell beer only to consumers and not to licensed retailers. On the evidence presented it appears that the agreement between the present holder of the license and the applicants herein is bona fide; that the present licensee obtained his license in good faith, and that there is no "attempt to barter a deal in a SBD license."

Admittedly there are a number of SBD licensees operating in the section of the State in which the applicant intends to operate. It might well be that, under the circumstances, no need would appear for the issuance of an additional license of this type. However, since the application herein has been made for the transfer of an existing license, and the applicants intend to service the customers of the present licensee and their own customers in the same general vicinity, I feel that the additional objection to the transfer of the license is also without merit.

On the evidence presented I conclude that the objections should not prevent the transfer of the license.

Accordingly, it is, on this 30th day of January, 1952,

ORDERED that the application for the transfer of the license be granted if and when the application for said transfer is in proper form.

ERWIN B. HOCK,  
Director

#### 11. STATE LICENSES - NEW APPLICATIONS FILED

Gold Star Liquors, Inc.

838-856 Main Ave., Passaic, N. J.

Application filed February 15, 1952 for additional warehouse at 183-187 Monroe Street, Passaic, N. J.

Tempesta Import Corp.

27-14 39th Ave., Long Island City 1, N. Y.

Application filed February 19, 1952 for Wine Wholesale License.

EDWARD J. DORTON,  
Acting Director

12. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF P.L. 1951, CH.163, DISMISSED UPON SURRENDER OF LICENSE.

In the Matter of Cancellation )  
Proceedings against )

JOHN & MARTHA MASELEY, )  
Englishtown Rd., )  
Madison Twp., )  
P.O. Box 327 Old Bridge, RD 1, N. J., )

CONCLUSIONS  
AND ORDER

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Holders of Limited Retail Distribution )  
License DL-2, issued by the Township )  
Committee of the Township of Madison )  
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David M. Kaplan, Esq., Attorney for Licensees.  
Anthony Meyer, Jr., Esq., Appearing for Division of Alcoholic  
Beverage Control.

Licensees were ordered to show cause why their limited retail distribution license should not be suspended, revoked or cancelled and declared null and void for the reason that said license was improvidently issued in violation of R.S. 33:1-12(3)b (as amended by P.L. 1951, ch. 163).

After a hearing had been held herein, the attorney for the licensees advised me in writing that the licensees had surrendered their license to the local issuing authority. The Township Clerk of the Township of Madison has certified to me that the license has been surrendered. Under the circumstances, the order to show cause will be discharged.

Accordingly, it is, on this 6th day of February, 1952,

ORDERED that the order to show cause herein be and the same is hereby discharged.

*Edward J. Doctors,*  
Acting Director